IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO.1239 of 2005

Between:

1. All India Trade Union Congress (AITUC), Visakha District Counsel,
Rep. by its General Secretary, M. Ananda Rao, S/o. M. Samba Murthy, aged

about 49 years, R/o. 54-17-73, Bhanu Nagar, H.B. Colony, Visakhapatnam.
2. Y. Venkata Ramana Murthy, S/o. Dalnaidu,
R/o. 5-118, Mathurwada, Chandrapalem, Visakhapatnam.

..... PETITIONERS

AND

1 Visakhapatnam Urban Development Authority (VUDA), Rep. by its Vice-

Chairman,Visakhapatnam.
2 Government of Andhra Pradesh, Rep. by Principal Secretary,
Municipal Administration and Urban Development, Secretariat, Hyderabad.
3 Andhra Pradesh Pollution Control Board, Rep. by its Principal Secretary,
Maithrivanam, Huda Complex, Ameerpet, Hyderabad.
4 Ministry of Environment and Forests, Government of India, Paryavaran

Bhavan, New Delhi.
5 JURONG Infrastructure (India) Private Limited, Rep. by its Executive

Director, JURGON House,
1/5, Palace Road, Bangalore.
6 Director, Department of Archeology,
Government of Andhra Pradesh, Gunfoundry, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, or order or direction more particularly in the nature of Writ of Mandamus declaring the action of respondents in going dated with the project of Mega Housing Project at Madhurawada, Visakhapatnam to construct dwelling units without obtaining clearance from R4 as arbitrary and unconstitutional and consequently direct the respondents not to take up any work in the name of implementing the project unless final clearance is given by R-4 as per its own Notification dt. 27-1-1994 as amended on 7-7-2004 & from R-6.

Counsel for the Petitioner : Sri K.S.MURTHY

Counsel for the Respondent No.1: Learned Advocate General

Counsel for the Respondent No.2: Govt. Pleader for Municipal Admn.

Counsel for the Respondent No.3: Sri S.V.Bhatt

The Court made the following :

ORAL ORDER: (Per Hon'ble the Chief Justice)

This is a petition filed as public interest litigation questioning the action of respondents in going ahead with the Mega Housing Project at Madhurawada, Visakhapatnam, to construct dwelling units, without obtaining clearance from the fourth respondent.

First petitioner is All India Trade Union Congress represented by its General Secretary and second petitioner is another social activist. They relied upon a notification issued on 7th July, 2004 alleging that Items 31 and 32 had been added in Schedule-I of the notification - S.O.60(E) dated 27-01-1994 by the Government of India, in exercise of its powers conferred under sub-section (1) and Clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 read with Clause (d) of

Sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986, and say that the Mega Housing Project undertaken by the second respondent as per approval in G.O.Rt.No.1091 M.A. Municipal Administration and Urban Development (H-2) Department dated 08th October, 2004 at Madhurawada over an extent of Acs.40-00 of land having 2,000 dwelling units at the cost of Rs.155 crores, would require appropriate clearance from the Ministry of Environment and Forests, and till that clearance is obtained, it is impermissible for the respondents to go ahead with the project in question. Petitioners have also made reference to Bavikonda Buddhist Monuments further stating that no construction activity can take place in the areas covered by Survey Nos.395/1, 395/2, 397 and 399 in Madhurawada village, which are protected under A.P. Ancient Historical Monuments Act, 1960. It is stated that despite the legal notice, respondents are going ahead with the project and it is alleged that preparation is going on at the site for the construction of dwelling units with the advance amounts, and unless protection is ordered and respondents are stopped from going ahead with the project till compliance with law, the public interest would suffer.

Before admitting the writ petition, learned Advocate General took notice and sought time to get appropriate instructions in the matter. Vital allegations have been specifically denied in the affidavit in reply filed by the first respondent. It is specifically denied that Mega Housing Project at Madhurawada would encroach

upon the land in Survey Nos.395/1, 395/2, 397 and 399 in the said village. There is no proposal to make any construction in those survey numbers or to violate the provisions of A.P. Ancient Historical Monuments Act, 1960. It is also stated that the Government has no intention to violate the provisions of law governing the subject. Affidavit in reply states that respondents do not deny that notification dated 07th July, 2004 requires permission to be obtained from fourth respondent before taking up any work, whether preliminary or otherwise, and in that direction, affidavit in reply says that respondents have entrusted the preparation of Environmental Impact Assessment Report and associated documentation of Environmental Management Plan, Environmental Impact Statement and DMP to the Institute of Development and Planning Studies (IDPS) in December, 2004 itself. It is also stated that IDPS has commenced the investigation and the report would be submitted to the authorities by the end of March, 2005. Respondents state that they have neither proceeded with the project nor have any plan to take up the project and except performing '*Bhoomi Puja*' by the Chief Minister, nothing further has taken place and all the allegations in the petition are not admitted by the respondents. The allegations that some amounts are being collected and heavy machinery is placed at the area in question are also denied by respondents.

In view of what has been stated in affidavit in reply, there is hardly any area of dispute remains surviving inasmuch respondents No.1 and 2 have categorically stated that no Governmental activity, either preliminary or otherwise, shall be undertaken, or allowed to take place, which might violate the relevant provisions of law, more particularly, without obtaining requisite permission from the fourth respondent. By taking the said statement on record, we close this writ petition.

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DEVINDER GUPTA, C.J.

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B.SESHASAYANA REDDY, J

14-02-2005

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ASST. REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Visakhapatnam Urban Development Authority (VUDA), Rep. by its Vice-

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2 Government of Andhra Pradesh, Rep. by Principal Secretary,
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